

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS**

ENCOMPASS INSURANCE COMPANY OF  
MASSACHUSETTS,

Plaintiff,

vs.

JOSEPH D. GIAMPA, FREDERICK T.  
GIAMPA, ADVANCED SPINE CENTERS,  
INC. d/b/a FIRST SPINE REHAB, FUTURE  
MANAGEMENT CORPORATION,  
EDWARD KENNEDY, BRIAN J. CULLINEY  
and JENNIFER McCONNELL,

Defendants.

CIVIL ACTION NO.: 05-11693RCL

**RULE 26(f) REPORT**

Date Complaint Filed: August 16, 2005

Date Complaint Served: August 18, 2005

Date of Defendants' Appearance: August 19, 2005

Pursuant to Fed. R. Civ. P. 16(b), 26(f) and D. Mass. Local Rules 16.1 and 26.2 the parties conferred on January 12, 2006 and February 21, 2006. The participants were: Richard D. King, Jr., Esq. and Nathan A. Tilden, Esq., for plaintiff Encompass Insurance Company of Massachusetts (hereinafter "Encompass"), Mathew J. Conroy, Esq., for defendants Joseph D. Giampa, Frederick T. Giampa, Advanced Spine Centers, Inc. d/b/a First Spine Rehab, and Future Management Corporation, Jeffrey J. Phillips, Esq. and Daniel Treger, Esq., for defendant Edward Kennedy, and Thomas M. Ciampa, Esq., counsel for defendants Brian J. Culliney, D.C. and Jennifer McConnell, D.C.

**I. Certification.**

Undersigned counsels certify that they have developed the following proposed case management plan. Counsels further certify that they have forwarded a copy of this report to their clients.

**II. Case Management Plan.**

*A. Standing Order on Scheduling in Civil Cases.*

The parties propose the following discovery schedule:

1. All fact discovery will be completed by August 30, 2007.
2. All dispositive motions filed thirty (30) days following the close of discovery.
3. Pretrial Conference Memoranda filed with the Court by April 30, 2008.

*B. Request for Rule 16 Conference with the Court.*

The parties request an early Rule 16 Conference with the Court to allow discovery before the entry of a scheduling order pursuant to Fed. R. Civ. P. 16(b).

*C. Early Settlement Conference.*

1. The parties certify that they have considered the desirability of attempting to settle the case before undertaking significant discovery or motion practice.

2. The parties have engaged in unsuccessful early settlement negotiations, and do not request an early settlement conference.

*D. Joinder of Parties and Amendment of Pleadings.*

The parties shall have thirty (30) days following the close of fact discovery to file motions to join additional parties and/or motions to amend the pleadings.

E. *Discovery.*

1. The parties shall file their Initial Disclosures pursuant to Fed. R. Civ. P. 26(a)(1) at or within fourteen (14) days after the first scheduling conference in this matter.
2. The parties agree to commence written discovery within thirty (30) days of the first scheduling conference.
3. The parties shall serve written responses to discovery demands within thirty (30) days following receipt of written discovery demands.
4. The parties anticipate that discovery will be needed on the following subjects:
  - a) Liability and Damages regarding plaintiff's claims;
  - b) Liability and Damages regarding defendants' potential counterclaims and cross-claims; and
  - c) Affirmative Defenses.
5. Depositions may begin thirty (30) days following the completion of written discovery demands, pleadings, responses and production of documents by the parties.
6. The plaintiff anticipates that it will require deposition of fact witnesses as follows:
  - (1) Depositions of the Principal Defendants;
  - (2) First Spine Patient Depositions;
  - (3) Keeper of Records Depositions;
  - (4) First Spine Employee and Former Employee Depositions;
  - (5) Business Associate Depositions;
  - (6) Expert Depositions.

7. The defendants anticipate that they will require depositions of fact witnesses as follows:

- (1) Encompass SIU Investigators;
- (2) First Spine Patients;
- (3) First Spine Former Employees;
- (4) Plaintiff's 30(b)(6) designee(s);
- (5) Third-Party Contractors and Consultants Utilized by Plaintiff in its Investigation;
- (6) Employees and/or 30(b)(6) designee(s) of Allstate;
- (7) Individuals and Parties Similarly Situated to the Defendants against whom Plaintiff and/or Allstate has Threatened or Filed Similar Litigation;
- (8) Expert Depositions.

8. The parties will request permission to serve more than twenty-five (25) interrogatories.

9. The parties will request leave to conduct more than ten (10) oral depositions, as outlined above. The parties reserve their rights to contest the relevance and/or amount of depositions.

10. The parties intend to call expert witness(es) at trial. Expert witness reports shall be served within 60 days of the close of fact discovery (October 30, 2007). Reply reports shall be served within 60 days of service of plaintiff's expert report (December 30, 2007).

11. The parties shall complete expert depositions within sixty (60) days of the service of the expert reply reports, or within ninety (90) days of expert witness reports if no reply is served.

F. *Dispositive Motions*

Dispositive motions shall be filed thirty (30) days following the close of all discovery (March 30, 2008).

G. Joint Trial Memorandum.

The parties shall submit a joint trial memorandum by April 30, 2008.

**VII. Trial Readiness.**

The case will be ready for trial 90 days after the filing of a joint trial memorandum.

As officers of the Court, undersigned counsel agree to cooperate to promote the just, speedy and inexpensive determination of this action.

Respectfully Submitted  
*Encompass Insurance Company*  
By its Attorneys,

/s/ Richard D. King, Jr.  
/s/ Nathan A. Tilden

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Respectfully Submitted  
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By their Attorney,

/s/ Thomas M. Ciampa

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Respectfully Submitted  
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*and Future Management Corporation*  
By their Attorneys,

/s/ Mathew J. Conroy  
/s/ Kathleen L. Kurtz

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Respectfully Submitted  
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By his Attorneys,

/s/ Jeffrey J. Phillips  
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